



General Assembly

January Session, 2005

***Raised Bill No. 6835***

LCO No. 4169

\*04169\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING IMPROVEMENTS TO THE UNDERGROUND  
STORAGE TANK PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-449 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Environmental Protection shall, to the  
4 extent possible, immediately, whenever there is discharge, spillage,  
5 uncontrolled loss, seepage or filtration of oil or petroleum or chemical  
6 liquids or solid, liquid or gaseous products or hazardous wastes upon  
7 any land or into any of the waters of the state or into any offshore or  
8 coastal waters, which may result in pollution of the waters of the state,  
9 damage to beaches, wetlands, stream banks or coastal areas, or  
10 damage to sewers or utility conduits or other public or private  
11 property or which may create an emergency, cause such discharge,  
12 spillage, uncontrolled loss, seepage or filtration to be contained and  
13 removed or otherwise mitigated by whatever method said  
14 commissioner considers best and most expedient under the  
15 circumstances. The commissioner shall also (1) determine the person,  
16 firm or corporation responsible for causing such discharge, spillage,

17 uncontrolled loss, seepage or filtration, and (2) send notice, in writing,  
18 to the chief executive officer and the local director of health of the  
19 municipality in which such discharge, spillage, uncontrolled loss,  
20 seepage or filtration occurs of such occurrence. Such notification shall  
21 be sent not later than twenty-four hours after the commissioner  
22 becomes aware of the contamination.

23 (b) The commissioner may: (1) License terminals in the state for the  
24 loading or unloading of oil or petroleum or chemical liquids or solid,  
25 liquid or gaseous products or hazardous wastes and shall adopt, in  
26 accordance with chapter 54, reasonable regulations in connection  
27 therewith for the purposes of identifying terminals subject to licensure  
28 and protecting the public health and safety and for preventing the  
29 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
30 petroleum or chemical liquids or solid, liquid or gaseous products or  
31 hazardous wastes. Each license issued under this section shall be valid  
32 for a period of not more than three years commencing July first, unless  
33 sooner revoked by the commissioner, and there shall be charged for  
34 each such license or renewal thereof fees established by regulation  
35 sufficient to cover the reasonable cost to the state of inspecting and  
36 licensing such terminals; (2) provide by regulations for the  
37 establishment and maintenance in operating condition and position of  
38 suitable equipment to contain as far as possible the discharge, spillage,  
39 uncontrolled loss, seepage or filtration of any oil or petroleum or  
40 chemical liquids or solid, liquid or gaseous products or hazardous  
41 wastes; (3) inspect periodically all hoses, gaskets, tanks, pipelines and  
42 other equipment used in connection with the transfer, transportation  
43 or storage of oil or petroleum or chemical liquids or solid, liquid or  
44 gaseous products or hazardous wastes to make certain that they are in  
45 good operating condition, and order the renewal of any such  
46 equipment found unfit for further use. No person shall commence  
47 operation of any such terminal in this state on or after July 1, 1993,  
48 without a license issued by the commissioner. Any person who  
49 operates any such terminal without a license issued by the  
50 commissioner shall be fined not more than five thousand dollars per

51 day during any period of unlicensed operation.

52 (c) The commissioner may establish such programs and adopt, in  
53 accordance with chapter 54, and enforce such regulations as he deems  
54 necessary to carry out the intent of sections 22a-133a to 22a-133j,  
55 inclusive, sections 22a-448 to 22a-454, inclusive, and Subtitle C of the  
56 Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.),  
57 as amended from time to time, except that actions pursuant to the  
58 state's hazardous waste program shall be brought under the provisions  
59 of sections 22a-131 and 22a-131a.

60 (d) The Commissioner of Environmental Protection, in consultation  
61 with the Commissioner of Public Safety, may establish by regulations  
62 adopted in accordance with the provisions of chapter 54 standards and  
63 criteria for the nonresidential underground storage of oil, petroleum  
64 and chemical liquids which may include but not be limited to  
65 standards and criteria for the design, installation, operation,  
66 maintenance and monitoring of facilities for the underground storage  
67 and handling of such liquids. [Each nonresidential underground  
68 storage facility which, pursuant to regulations adopted pursuant to  
69 this section, submits notification of installation to the commissioner  
70 after July 1, 1990, shall submit a notification fee of one hundred dollars  
71 per tank.] The Commissioner of Environmental Protection may  
72 establish such programs and adopt, in accordance with chapter 54, and  
73 enforce such regulations as he deems necessary to carry out the intent  
74 of Subtitle I of the Resource Conservation and Recovery Act of 1976 (42  
75 USC 6901, et seq.), as amended from time to time.

76 [(e) The fee for the inspection of each nonresidential underground  
77 storage facility which, pursuant to regulations adopted pursuant to  
78 this section, submits notification to the commissioner shall be one  
79 hundred dollars per tank, provided such fee may not be charged more  
80 than once every five years.]

81 (e) The Commissioner of Environmental Protection may adopt  
82 regulations, in accordance with the provisions of chapter 54,

83 establishing (1) requirements for the inspection of nonresidential  
84 underground storage tanks systems for compliance with this section  
85 and any regulations adopted under this section, including, but not  
86 limited to, the minimum frequency and requirements for inspections,  
87 maintenance and disclosure of results, and (2) a program to authorize  
88 persons to perform inspections, including education and training  
89 requirements for such persons, and whether or not such persons may  
90 be employed by the owner or operator of the subject underground  
91 storage tank system.

92 (f) (1) If the commissioner determines that a nonresidential  
93 underground storage tank system (A) is not designed, constructed,  
94 installed and operated in accordance with section 22a-449o or  
95 regulations adopted pursuant to this section, (B) fails to have or  
96 operate proper release detection equipment in accordance with  
97 regulations adopted pursuant to this section, or (C) fails to have or  
98 operate proper overfill and spill protection measures or equipment in  
99 accordance with regulations adopted pursuant to this section, then the  
100 commissioner may require the owner or operator of the nonresidential  
101 underground storage tank system to pump out the contents of its  
102 system, place a notice on a system that is plainly visible, indicating that  
103 the system is not in compliance with the requirements applicable to  
104 underground storage tank systems and that such system cannot be  
105 used and deliveries to such system cannot be accepted until a date  
106 specified by the commissioner, or disable the use of such system by a  
107 device that prohibits deliveries to such system. Any action pursuant to  
108 this subsection shall not be based solely on requirements relating to  
109 reporting or record keeping.

110 (2) No person shall make deliveries to any system bearing the notice  
111 described in subdivision (1) of this subsection or on which the  
112 commissioner has placed a disabling device. The owner or operator of  
113 such system shall ensure that any such system is not used for  
114 dispensing product or receiving deliveries until the commissioner  
115 determines that said system is in compliance with the applicable

116 requirements. No person or municipality shall remove, alter, deface or  
117 tamper with any notice or disabling device placed by the  
118 commissioner pursuant to subdivision (1) of this subsection.

119 (3) Nothing in this subsection shall affect the authority of the  
120 commissioner under any other statute or regulation.

121 (4) The commissioner may adopt regulations, in accordance with the  
122 provisions of chapter 54, establishing requirements, other than those  
123 specified in this subsection, relating to the prohibition of deliveries to  
124 and the use of nonresidential underground storage tank systems that  
125 are not in compliance with the requirements of this section and any  
126 regulations adopted under this section.

127 (g) The person submitting a notification of installation for a  
128 nonresidential underground storage tank or underground storage tank  
129 system pursuant to regulations adopted pursuant to this section shall  
130 submit with such notification a notification fee of one hundred dollars  
131 per tank or system. After July 1, 2006, on or before the anniversary date  
132 of such notification, and annually thereafter, the operator of each  
133 nonresidential underground storage tank or underground storage tank  
134 system shall submit a fee of fifty dollars per tank or system to the  
135 commissioner.

136 [(f)] (h) Any moneys collected for the issuance or renewal of a  
137 license, pursuant to subsection [(b)] (g) of this section or regulations  
138 adopted pursuant to said subsection, shall be deposited in the General  
139 Fund.

140 Sec. 2. Subdivision (3) of section 22a-449a of the general statutes is  
141 repealed and the following is substituted in lieu thereof (*Effective from*  
142 *passage*):

143 (3) "Responsible party" means any person or entity, including the  
144 state and any political subdivision of the state, [which] who owns or  
145 operates or has owned or operated an underground storage tank or

146 underground storage tank system from which a release emanates or  
147 has emanated, regardless of the time such release occurs.

148 Sec. 3. Section 22a-449c of the general statutes is repealed and the  
149 following is substituted in lieu thereof (*Effective from passage*):

150 (a) (1) There is established an account to be known as the  
151 "underground storage tank petroleum clean-up account". The  
152 underground storage tank petroleum clean-up account shall be an  
153 account of the Environmental Quality Fund. Notwithstanding any  
154 provision of the general statutes to the contrary, any moneys collected  
155 shall be deposited in the Environmental Quality Fund and credited to  
156 the underground storage tank petroleum clean-up account. Any  
157 balance remaining in said account at the end of any fiscal year shall be  
158 carried forward in said account for the fiscal year next succeeding.

159 (2) The account shall be used by the Commissioner of  
160 Environmental Protection to provide money for reimbursement or  
161 payment pursuant to section 22a-449f to responsible parties, [or]  
162 parties supplying goods or services, [or both, to responsible parties] or  
163 to parties referred to in subsection (f) of section 22a-449f, as amended  
164 by this act, for costs, expenses and other obligations paid or incurred,  
165 as the case may be, as a result of releases, and suspected releases, costs  
166 of investigation and remediation of releases and suspected releases,  
167 and for third party claims that have been finally adjudicated or settled  
168 with the prior written consent of the board for bodily injury, property  
169 damage and damage to natural resources. The commissioner may also  
170 make payment from the account to an assignee who is in the business  
171 of receiving assignments of amounts approved by the board pursuant  
172 to section 22a-449f, as amended by this act, but not yet paid from the  
173 account, provided the party making any such assignment, using a  
174 form approved by the commissioner, directs the commissioner to pay  
175 such assignee and that no cost of any assignment shall be borne by the  
176 account.

177 (3) Notwithstanding the provisions of this section regarding

178 reimbursements of parties pursuant to section 22a-449f, as amended by  
179 this act, regulations promulgated pursuant to section 22a-449e, as  
180 amended by this act, and regardless of when an application for  
181 payment or reimbursement from the account may have been  
182 submitted to the board, [after] payment or reimbursement shall be  
183 made in accordance with the following: (A) After June 1, 2004, no  
184 payment or reimbursement shall be made for any costs, expenses and  
185 other obligations paid or incurred for remediation, including any  
186 monitoring to determine the effectiveness of the remediation, of a  
187 release to levels more stringent than or beyond those specified in the  
188 remediation standards established pursuant to section 22a-133k, except  
189 to the extent the applicant demonstrates that it has been directed  
190 otherwise by the Department of Environmental Protection, (B) after  
191 June 1, 2005, no payment or reimbursement from the account shall be  
192 made to any party for interest or for diminution in property value, (C)  
193 after June 1, 2005, no payment or reimbursement from the account  
194 shall be made for attorneys' fees or other costs of legal representation  
195 paid or incurred as a result of a release or suspected release (i) in  
196 excess of five thousand dollars to any responsible party or party  
197 referred to in subsection (f) of section 22a-449f, as amended by this act,  
198 (ii) in excess of ten thousand dollars to any other party, and (iii) by a  
199 responsible party or party referred to in subsection (f) of section 22a-  
200 449f, as amended by this act, regarding the defense of claims brought  
201 by another party, and (D) parties shall bear the costs of a release as  
202 specified in subdivision (4) of this subsection. [In addition,  
203 notwithstanding the provisions of this section regarding  
204 reimbursements of parties pursuant to section 22a-449f, the responsible  
205 party for a release shall bear all costs of the release that are less than  
206 ten thousand dollars or more than one million dollars, except that for  
207 any such release which was reported to the department prior to  
208 December 31, 1987, and for which more than five hundred thousand  
209 dollars has been expended by the responsible party to remediate such  
210 release prior to June 19, 1991, the responsible party for the release shall  
211 bear all costs of such release which are less than ten thousand dollars

212 or more than five million dollars, provided the portion of any  
213 reimbursement or payment in excess of three million dollars may, at  
214 the discretion of the commissioner, be made in annual payments for up  
215 to a five-year period.] There shall be allocated to the department  
216 annually, for administrative costs, two million dollars.

217 (4) Notwithstanding the provisions of this section regarding  
218 reimbursements of parties pursuant to section 22a-449f, as amended by  
219 this act, a responsible party or a party referred to in subsection (f) of  
220 section 22a-449f, as amended by this act, shall bear the costs of a  
221 release in accordance with the following: (A) For a release that was  
222 reported to the department prior to December 31, 1987, and for which  
223 more than five hundred thousand dollars has been expended by the  
224 responsible party to remediate such release prior to June 19, 1991, the  
225 responsible party for the release shall bear all costs of such release that  
226 are less than ten thousand dollars or more than five million dollars,  
227 provided the portion of any reimbursement or payment in excess of  
228 three million dollars may, at the discretion of the commissioner, be  
229 made in annual payments for up to a five-year period, (B) for an initial  
230 application or request for payment or reimbursement that is received  
231 by the board before July 1, 2005, a responsible party or party referred  
232 to in subsection (f) of section 22a-449f, as amended by this act, shall  
233 bear all costs, expenses or other obligations paid or incurred in  
234 response to the release or suspected release that are less than ten  
235 thousand dollars and more than one million dollars, and (C) for an  
236 initial application or request for payment or reimbursement that is  
237 received by the board before July 1, 2005, a responsible party or a party  
238 referred to in subsection (f) of section 22a-449f, as amended by this act,  
239 shall bear all costs, expenses, or other obligations paid or incurred in  
240 response to the release or suspected release that are less than twenty  
241 thousand dollars or ten per cent of the total amount for which payment  
242 or reimbursement is sought, whichever is greater, and that are more  
243 than one million dollars. For purposes of this subdivision, ten per cent  
244 of the total amount for which payment or reimbursement is sought  
245 shall be based upon the amount sought in each such application or



246 request, not the amount approved by the board pursuant to section  
247 22a-449f, as amended by this act, and determined by adding together  
248 the amounts sought in each application or request with such  
249 determinations being made each time an application or request is  
250 received by the board. Notwithstanding the provisions of this section  
251 regarding payment or reimbursement of parties pursuant to section  
252 22a-449f, as amended by this act, any party, other than a responsible  
253 party or a party referred to in subsection (f) of section 22a-449f, as  
254 amended by this act, shall bear all costs of a release or suspected  
255 release that are more than one million dollars.

256 (5) Notwithstanding the provisions of subdivision (4) of this  
257 subsection, the commissioner, in accordance with the procedures set  
258 forth in this subdivision, may identify equipment to prevent releases  
259 that is not already required by any statute or regulation and may lower  
260 the amount specified in subdivision (4) of this subsection to an amount  
261 not less than ten thousand dollars based upon the installation,  
262 operation and maintenance of any such equipment. No modification to  
263 the amount specified in subdivision (4) of this subsection shall be  
264 made until the commissioner, after consultation with the board, using  
265 the procedures prescribed in subdivision (2) of subsection (b) of section  
266 22a-449e, as amended by this act, has identified the equipment used to  
267 prevent releases and the amount that a responsible party or party  
268 referred to in subsection (f) of section 22a-449f, as amended by this act,  
269 must bear based upon the installation, operation or maintenance of  
270 such equipment.

271 (b) There is established a subaccount within the underground  
272 storage tank petroleum clean-up account to be known as the  
273 "residential underground heating oil storage tank system clean-up  
274 subaccount" to be used solely for the provision of reimbursements  
275 under sections 22a-449l and 22a-449n, for the remediation of  
276 contamination attributed to residential underground heating oil  
277 storage tank systems. The subaccount shall hold the proceeds of the  
278 bond funds allocated pursuant to section 51 of public act 00-167\*.

279     (c) There is established a subaccount within the underground  
280     storage tank petroleum clean-up account to be known as the "pay for  
281     performance subaccount" with which the commissioner may  
282     implement a program, in consultation with the review board, in which  
283     reimbursement or payment in accordance with this section are based  
284     upon the achievement of environmental milestones or results. The  
285     commissioner, with the approval of the review board, may enter into  
286     contracts to implement any such program.

287     (d) Where a party submits multiple applications or requests for  
288     payment or reimbursement for costs, expenses and other obligations  
289     paid or incurred for remediation, (1) for an initial application or  
290     request for payment or reimbursement that was received by the board  
291     before July 1, 2005, the board shall not order reimbursement or  
292     payment from the account for costs, expenses or other obligations paid  
293     or incurred in response to the releases or suspected releases noted in  
294     such initial application or request for payment or reimbursement  
295     unless all applications or requests for payment or reimbursement are  
296     submitted to the board on or before October 1, 2009, which payment or  
297     reimbursement may be ordered by the board and made by the  
298     commissioner after October 1, 2009, and (2) for an initial application or  
299     request for payment or reimbursement that was received by the board  
300     on or after July 1, 2005, the board shall not order reimbursement or  
301     payment from the account for costs, expenses or other obligations paid  
302     or incurred in response to the releases or suspected releases noted in  
303     such initial application or request for payment or reimbursement  
304     unless all applications or requests for payment or reimbursement are  
305     submitted to the board on or before five years of the date the board  
306     receives the initial application or request for payment or  
307     reimbursement, which payment or reimbursement may be ordered by  
308     the board and made by the commissioner after the expiration of such  
309     five-year time period. Where the board does not make an initial  
310     decision on an application or request for payment or reimbursement  
311     on or before one year of receipt, then a one-year period shall be added  
312     to the date or time period for payment or reimbursement required by

313 this subsection, except not more than a two-year period shall be added  
314 to such date or time period.

315 (e) (1) Any party that receives or expects to receive payment or  
316 reimbursement from any source other than the account for any cost,  
317 expense, obligation, damage or injury for which such party has  
318 received or has applied for payment or reimbursement from the  
319 account, shall notify the board, in writing, of such additional or  
320 expected payment and shall, not more than thirty days of receiving  
321 such additional payment, repay the underground storage tank  
322 petroleum clean-up fund all amounts received from any other source.

323 (2) If the board determines that a party is seeking or has sought  
324 payment or reimbursement for any cost, expense, obligation, damage  
325 or injury from the account and that payment or reimbursement for any  
326 such cost, expense, obligation, damage or injury is actually or  
327 potentially available to any such party from any source other than the  
328 account, the board may (A) reduce the amount, in whole or in part, for  
329 which payment or reimbursement is made from the account, or (B)  
330 impose any conditions it deems reasonable regarding any amount it  
331 orders to be paid from the account.

332 Sec. 4. Subsection (a) of section 22a-449d of the general statutes is  
333 repealed and the following is substituted in lieu thereof (*Effective from*  
334 *passage*):

335 (a) There is established an Underground Storage Tank Petroleum  
336 Clean-Up Account Review Board. [to review applications for  
337 reimbursements and payments from the account established under  
338 section 22a-449c.] Upon application for reimbursement or payment  
339 pursuant to section 22a-449f, as amended by this act, the board shall  
340 determine, [if a release occurred and damage resulted from such  
341 release and the amount of any such damage] based on the provisions  
342 of sections 22a-449a to 22a-449i, inclusive, as amended by this act,  
343 whether or not to order payment or reimbursement from the account.  
344 The board shall have the authority to order payment from the

345 residential underground heating oil storage tank system clean-up  
346 subaccount to registered contractors pursuant to section 22a-449l, or to  
347 owners pursuant to section 22a-449n, for reasonable costs associated  
348 with the remediation of a residential underground heating oil storage  
349 tank system based on the guidelines established pursuant to  
350 subsection (c) of this section; hold hearings, administer oaths,  
351 subpoena witnesses and documents through its chairperson when  
352 authorized by the board; designate an agent to perform such duties of  
353 the board as it deems necessary except the duty to render a final  
354 decision to order reimbursement or payment from the account; and  
355 provide by notice, printed on any form, that any false statement made  
356 thereof or pursuant thereto is punishable pursuant to section 53a-157b.

357       Sec. 5. Section 22a-449e of the general statutes is repealed and the  
358 following is substituted in lieu thereof (*Effective from passage*):

359       (a) The Commissioner of Environmental Protection, after  
360 consultation with the members of the review board established by  
361 section 22a-449d, as amended by this act, shall adopt regulations, in  
362 accordance with the provisions of chapter 54, setting forth procedures  
363 for reimbursement and payment from the account established under  
364 section 22a-449c, as amended by this act. Such regulations shall include  
365 such provisions as the commissioner deems necessary to carry out the  
366 purposes of sections 22a-449a to 22a-449h, inclusive, as amended by  
367 this act, including, but not limited to, provisions for (1) notification of  
368 eligible parties of the existence of the account; (2) records required for  
369 submission of claims and reimbursement and payment; (3) periodic  
370 and partial reimbursement and payment to enable responsible parties  
371 to meet interim costs, expenses and obligations; and (4) reimbursement  
372 and payment for costs, expenses and obligations incurred in  
373 connection with releases or suspected releases, and incurred after July  
374 5, 1989, for releases discovered before or after said date provided  
375 reimbursement and payment shall not be made for costs, expenses and  
376 obligations incurred by a responsible party on or before said date.

377        (b) (1) The commissioner, in accordance with the procedures set  
378 forth in subdivision (2) of this subsection, may prescribe a schedule for  
379 the maximum amount to be paid from the account for labor,  
380 equipment, materials, services or other costs, expenses or obligations  
381 paid or incurred as a result of a release or suspected release. Such  
382 schedule shall not be a regulation, as defined in section 4-166. The  
383 amounts in any such schedule may be less than and shall be not more  
384 than the usual, customary and reasonable amounts charged, as  
385 determined by the commissioner. Notwithstanding the provisions of  
386 sections 22a-449a to 22a-449j, inclusive, as amended by this act, or any  
387 regulation adopted by the commissioner pursuant to this section, upon  
388 adoption of any such schedule, the amount to be paid from the account  
389 for any labor, equipment, materials, services or other costs, expenses or  
390 obligations, shall not exceed the amount established in any such  
391 schedule.

392        (2) The commissioner shall adopt, revise or revoke said schedule in  
393 accordance with the provisions of this subsection. After consultation  
394 with the board, the commissioner shall publish notice of intent to  
395 adopt, revise or revoke the schedule, or any portion thereof, in a  
396 newspaper having substantial circulation in the affected area. There  
397 shall be a comment period of thirty days following publication of such  
398 notice during which interested persons may submit written comments  
399 to the commissioner. The commissioner shall publish notice of the  
400 adoption, revision or revocation of the schedule, or part thereof, in a  
401 newspaper having substantial circulation in the affected area. The  
402 commissioner may review such schedule every two years or may do so  
403 more or less frequently, as the commissioner deems necessary. The  
404 commissioner, after consultation with the board, may revise or revoke  
405 the schedule, in whole or in part, using the procedures specified in this  
406 subsection. Any person may request that the commissioner adopt,  
407 revise or revoke the schedule in accordance with this subsection.

408        (c) Upon adoption of a schedule by the commissioner pursuant to  
409 subsection (b) of this section, the requirements concerning obtaining

410 three bids for services rendered contained in regulations adopted  
411 pursuant to this section shall not apply, provided the schedule  
412 includes the subject services.

413 (d) An environmental professional, as defined in section 22a-133v,  
414 shall use a seal, as provided for in regulations adopted pursuant to  
415 section 22a-133v, to provide written approval required under section  
416 22a-449c, as amended by this act, or section 22a-449f, as amended by  
417 this act. The regulations adopted pursuant to section 22a-133v  
418 regarding the use of a seal and the rules of professional conduct shall  
419 apply to the duties of an environmental professional contained in  
420 sections 22a-449a to 22a-449i, inclusive, as amended by this act.

421 Sec. 6. Section 22a-449f of the general statutes is repealed and the  
422 following is substituted in lieu thereof (*Effective from passage*):

423 (a) A responsible party or a party referred to in subsection (f) of this  
424 section may apply to the Underground Storage Tank Petroleum Clean-  
425 Up Account Review Board established under section 22a-449d, as  
426 amended by this act, for reimbursement for costs paid and payment of  
427 costs incurred as a result of a release, or a suspected release, including  
428 costs of investigating and remediating a release, or a suspected release,  
429 incurred or paid by a [responsible] party who is determined not to  
430 have been liable for any such release. If a person or entity, other than a  
431 responsible party or a person referred to in subsection (f) of this  
432 section, claims to have suffered [damage or personal injury] bodily  
433 injury, property damage or damage to natural resources from a  
434 release, [and] the person or entity with such claim shall make  
435 reasonable attempts to provide written notice to the responsible party  
436 of such claim and if such person or entity cannot provide such notice  
437 or if the responsible party [denies there was a release or] does not  
438 apply to the board for payment of such claim not later than sixty days  
439 of receipt of such notice or such other time as may be agreed to by the  
440 parties, the person or entity holding such claim may apply to the board  
441 for payment for such damage or [personal] bodily injury.

442        (b) (1) On or after October 1, 2005, the board shall not order and the  
443        commissioner shall not make any payment or reimbursement from the  
444        account for costs, expenses or other obligations, paid or incurred,  
445        unless the party seeking such payment or reimbursement  
446        demonstrates that (A) with respect to the first two hundred fifty  
447        thousand dollars in total costs, expenses or other obligations, that the  
448        labor, equipment and materials and any other activity or service  
449        undertaken was or is approved, in writing, by the commissioner or by  
450        an environmental professional, as defined in section 22a-133v, and (B)  
451        after the first two hundred fifty thousand dollars has been paid or  
452        incurred, with respect to all additional costs, expenses or other  
453        obligations, up to one million dollars, that the labor, equipment and  
454        materials and any other activity or service undertaken was or is  
455        approved in writing by the commissioner.

456        (2) The fees charged by an environmental professional regarding  
457        labor or services rendered by a licensed environmental professional  
458        regarding labor or services rendered in response to a release or  
459        suspected release may be included in any application or request for  
460        payment or reimbursement submitted to the board. Such fees may also  
461        be established in the schedule adopted by the commissioner pursuant  
462        to subsection (b) of section 22a-449e, as amended by this act.

463        (3) Providing it is true and accurate, an environmental professional  
464        shall submit the following certification regarding any approval  
465        provided under subdivision (1) of this subsection: "I hereby agree that  
466        all of the work and services described in or covered by this certification  
467        was necessary to abate an emergency or was performed as part of a  
468        plan specifically designed to ensure that the release or suspected  
469        release is or has been investigated in accordance with prevailing  
470        standards and guidelines and remediated consistent with and to  
471        achieve compliance with the remediation standards adopted under  
472        section 22a-133k."

473        (c) The board shall order reimbursement or payment from the

474 account for any cost paid or incurred, as the case may be, if, (1) such  
475 cost is or was incurred after July 5, 1989, (2) the responsible party or a  
476 party referred to in subsection (f) of this section was or would have  
477 been required to demonstrate financial responsibility under 40 CFR  
478 Part 280.90 et seq. as said regulation was published in the Federal  
479 Register of October 26, 1988, for the underground storage tank or  
480 underground storage tank system from which the release emanated,  
481 whether or not such owner is required to comply with said  
482 requirements on the date any such cost is incurred, provided if the  
483 state is the responsible party, the board may order payment from the  
484 account without regard to whether the state was or would have been  
485 required to demonstrate financial responsibility under said sections 40  
486 CFR Part 280.90 et seq., (3) after the release, if any, the responsible  
487 party or party referred to in subsection (f) of this section incurred a  
488 cost, expense or obligation for investigation, cleanup or for claims of  
489 [third parties] a party other than a responsible party or party referred  
490 to in subsection (f) of this section resulting from a release, provided  
491 any [third party] such claim shall be required to be finally adjudicated  
492 or settled with the prior written approval of the board before an  
493 application for reimbursement or payment is made, (4) the board  
494 determines that the cost, [is for damage that was incurred as a result of  
495 the release,] expense or other obligation is reasonable and that the  
496 grounds for recovery specified in [subsection (b)] subdivisions (1) to  
497 (3), inclusive, of subsection (h) of this section do not exist at the time  
498 such determination is made, (5) the responsible party or party referred  
499 to in subsection (f) of this section notified the [board] commissioner of  
500 the release in accordance with regulations adopted pursuant to section  
501 22a-449e, as amended by this act, or, where such regulations are not  
502 applicable, as soon as practicable, [of the release,] and notified the  
503 review board, as soon as practicable, of any [third party] claim by a  
504 party, other than a responsible party or party referred to in subsection  
505 (f) of this section, resulting from the release, [in accordance with the  
506 regulations adopted pursuant to section 22a-449e, and] (6) the  
507 [applicant] responsible party or party referred to in subsection (f) of



508 this section demonstrates the remediation, including any monitoring to  
509 determine the effectiveness of the remediation, for which payment or  
510 reimbursement is sought is not more stringent than that required by  
511 the remediation standards established pursuant to section 22a-133k,  
512 except to the extent the [applicant] responsible party or party referred  
513 to in subsection (f) of this section demonstrates that it has been  
514 directed otherwise by the [Department of Environmental Protection]  
515 commissioner, (7) the responsible party or party referred to in  
516 subsection (f) of this section demonstrates that it does not have  
517 insurance, or a contract or other agreement to provide payment or  
518 reimbursement for any cost, expense or other obligation incurred in  
519 response to a release or suspected release, or if there is any such  
520 insurance, contract or other agreement that such insurance, contract or  
521 other agreement is either unavailable or insufficient to cover the costs,  
522 expenses or other obligations, paid or incurred, for which payment or  
523 reimbursement is sought from the account, (8) the responsible party or  
524 party referred to in subsection (f) of this section demonstrates and the  
525 board determines that one of the milestones noted in section 8 of this  
526 act has been completed, (9) the board determines what, if any,  
527 reductions to the amounts sought from the account should be made  
528 based upon the compliance evaluations performed pursuant to  
529 subsection (d) of this section, and (10) if at the time any application or  
530 request for payment or reimbursement is submitted to the board,  
531 including any supplemental application or request, there is no  
532 underground storage tank system dispensing petroleum on the  
533 property where the release or suspected release emanated or occurred,  
534 then the responsible party or party referred to in subsection (f) of this  
535 section must demonstrate that lack of compliance with provisions of  
536 the general statutes and regulations governing underground storage  
537 tank systems was not a potential or actual cause of the release or  
538 suspected release. In acting on an application or a request for payment  
539 or reimbursement, the board, using funds from the [underground  
540 storage tank petroleum clean-up] account, may contract with experts,  
541 including, but not limited to, attorneys and medical professionals, to

542 better evaluate and defend against claims and negotiate third party  
543 claims. The costs of the board for experts shall not be charged to the  
544 amount allocated to the Department of Environmental Protection  
545 pursuant to section 22a-449c, as amended by this act. If a party, other  
546 than a responsible party or a party referred to in subsection (f) of this  
547 section applies to the board claiming to have suffered bodily injury,  
548 property damage or damage to natural resources, the board shall order  
549 reimbursement or payment from the account if such party  
550 demonstrates that subdivisions (1), (2), (6) and (7) of this subsection are  
551 satisfied, the board determines that as a result of a release or suspected  
552 release such party has suffered bodily injury, property damage or  
553 damage to natural resources, that the costs, expenses or other  
554 obligations incurred are reasonable and the party submitting such  
555 claim demonstrates that it has attempted to or has provided written  
556 notice of its claim to the responsible party as required in subsection (a)  
557 of this section and that the responsible party has not applied to the  
558 board for payment or reimbursement of this claim.

559 (d) (1) Except as provided in this subsection, if at the time any  
560 application or request for payment or reimbursement is submitted to  
561 the board, including any supplemental application or request, there is  
562 an underground storage tank system dispensing petroleum on the  
563 property where the release or suspected release emanated or occurred,  
564 such application or request shall not be deemed complete and shall not  
565 be acted upon by the board unless such application or request includes  
566 a summary of the compliance status of all the underground storage  
567 tank systems on the subject property. Any such summary shall include  
568 an evaluation of compliance with the design, construction, installation,  
569 notification, general operating, release detecting, system upgrading,  
570 abandonment and removal date requirements of the regulations  
571 adopted pursuant to sections 22a-449, as amended by this act, and 22a-  
572 449o and shall be prepared by an independent consultant on a form  
573 prescribed by or acceptable to the commissioner. The summary shall  
574 be based on an evaluation of said underground storage tank systems  
575 performed not more than one hundred eighty days before the board

576 receives an application or a request for reimbursement or payment,  
577 except with respect to any provision of the subject regulations  
578 regarding the record keeping, periodic monitoring or testing, the  
579 summary shall be based on an evaluation for one year prior to the  
580 board's receipt of an application or a request for payment or  
581 reimbursement.

582 (2) With respect to any initial application or request for payment or  
583 reimbursement regarding a release or suspected release the provisions  
584 of subdivision (1) of this subsection shall apply only to applications or  
585 requests received on or after January 1, 2006. With respect to any  
586 supplemental application or request for payment or reimbursement  
587 regarding a release or suspected release, the provisions of subdivision  
588 (1) of this subsection shall apply to each application or request  
589 submitted to the board on or after January 1, 2006, regardless of when  
590 the initial application or request was submitted, except that submission  
591 of a compliance summary shall not be required if at the time a  
592 supplemental application or request is submitted, less than one year  
593 has passed since the performance of a compliance evaluation  
594 submitted with any prior application or request.

595 (3) The cost of hiring an independent consultant to perform a  
596 compliance evaluation, as required by this subsection, shall be eligible  
597 for payment or reimbursement from the account up to a maximum of  
598 one thousand dollars per compliance evaluation, provided the  
599 evaluation is in conformance with the requirements of this subsection  
600 and includes all underground storage tank systems on the property  
601 where a release or suspected release occurred. If the schedule adopted  
602 by the commissioner pursuant to subsection (b) of section 22a-449e, as  
603 amended by this act, includes an amount for performing a compliance  
604 evaluation, upon adoption of any such schedule, the amount eligible  
605 for payment or reimbursement for performing a compliance evaluation  
606 shall be the amount prescribed in any such schedule.

607 (4) Nothing in this subsection shall affect the continued applicability

608 of any decision of the board to (A) deny reimbursement or payment  
609 from the account, or (B) provide only partial payment or  
610 reimbursement regarding all applications or requests for payment or  
611 reimbursement from the account. Any such decision shall remain in  
612 effect and shall not be subject to reconsideration or reevaluation as a  
613 result of this subsection.

614 (5) If at the time any application or request for payment or  
615 reimbursement, including any supplemental application or request, is  
616 submitted, there is no underground storage tank system dispensing  
617 petroleum on the property where the release or suspected release  
618 emanated or occurred, any such application or request shall be subject  
619 to the provisions of subdivision (10) of subsection (c) of this section, as  
620 amended by this act, even where a prior application or request was  
621 subject to the provisions of this subsection.

622 (e) If a responsible party or a party referred to in subsection (f) of  
623 this section submits an application or a request for payment or  
624 reimbursement and the board determines that any of the following  
625 violations exist with respect to any underground storage tank or  
626 underground storage tank system on the property at which a release or  
627 suspected release occurred, the board shall reduce any payment or  
628 amount to be reimbursed as follows: (1) A one hundred per cent  
629 reduction of the payment or amount to be reimbursed for failure to  
630 meet the tank or piping construction requirements of section 22a-449o  
631 or the regulations adopted pursuant to section 22a-449, as amended by  
632 this act, or for failure to report a release to the commissioner as  
633 required by this section, (2) a seventy-five per cent reduction of the  
634 payment or amount to be reimbursed for failure to have proper  
635 operation of cathodic protection, spill prevention, overfill prevention,  
636 or release detection as required by the regulations adopted pursuant to  
637 section 22a-449, as amended by this act. Notwithstanding the  
638 provisions of this subsection, the board may reduce any amount to be  
639 paid or reimbursed based on any other violation of the provisions of  
640 the general statutes or regulations of Connecticut state agencies

641 regarding ownership or operation of an underground storage tank  
642 system.

643 (f) With respect to any application or a request for payment or  
644 reimbursement from the account, any person or entity that (1) owns,  
645 leases, uses or has an interest in the real property on which an  
646 underground storage tank system from which there is or has been a  
647 release, regardless of when the release or suspected release occurred, is  
648 located, or a person or entity who is affiliated with such persons or  
649 entities through a direct or indirect familial relationship or any  
650 contractual, corporate or financial relationship, or (2) owns, leases,  
651 operates, uses, or has an interest in an underground storage tank  
652 system from which there is or has been a release or suspected release,  
653 regardless of when the release or suspected release occurred, is  
654 located, or a person or entity who is affiliated with such persons or  
655 entities through a direct or indirect familial relationship or any  
656 contractual, corporate or financial relationship, shall be eligible to  
657 receive payment or reimbursement from the account as if such person  
658 or entity was a responsible party.

659 [(b)] (g) (1) For all work or services performed or materials provided  
660 after October 1, 2004, the board shall not order payment or  
661 reimbursement from the account for any cost, expense or other  
662 obligation, paid or incurred, unless the application or  
663 [preauthorization] request [seeking] for payment or reimbursement is  
664 received by the board within one [hundred eighty days] year of the  
665 date [that such work or services were rendered or performed or the  
666 date that any material was provided] of the first or initial invoice from  
667 the provider of such work, services, or materials, seeking payment or  
668 reimbursement for such work, services, or materials.

669 (2) For all work or services performed or materials provided before  
670 October 1, 2004, the board shall not order payment or reimbursement  
671 from the account for any cost paid or incurred, unless the application  
672 or preauthorization request seeking payment or reimbursement is

673 received by the board on or before April 1, 2005.

674 (3) For purposes of this subsection, work or services shall be  
675 deemed rendered or performed on the date such work is rendered or  
676 performed and a material shall be deemed provided on the date a  
677 material is made available for use.

678 (4) With respect to supplemental applications or supplemental  
679 requests for payment or reimbursement submitted to the board after  
680 October 1, 2005, a responsible party or party referred to in subsection  
681 (f) of this section shall not submit more than four applications or  
682 requests for payment or reimbursement in any calendar year for costs,  
683 expenses or other obligations paid or incurred in response to a release  
684 or suspected release.

685 (5) After the effective date of section 8 of this act the board shall not  
686 order payment or reimbursement from the account for any cost,  
687 expense or other obligation, paid or incurred, unless the application or  
688 request for payment or reimbursement is received by the board not  
689 later than one year after the completion of all or substantially all of the  
690 work or activities necessary to prepare the plan or report required by  
691 the milestones set forth in said section.

692 ~~[(c)]~~ (h) The Attorney General, upon the request of the board, or the  
693 commissioner may institute an action in the superior court for the  
694 judicial district of Hartford to recover the amounts specified in this  
695 section from the responsible party or a party referred to in subsection  
696 (f) of this section if: (1) Prior to the occurrence of the release, the  
697 underground storage tank or underground storage tank system from  
698 which the release emanated was required by regulations adopted  
699 under section 22a-449, as amended by this act, to be the subject of a  
700 notification to the Commissioner of Environmental Protection but the  
701 responsible party [knowingly and intentionally] or a party referred to  
702 in subsection (f) of this subsection failed to notify the commissioner; (2)  
703 the release results from a negligent, reckless, wilful, wanton or  
704 intentional act or omission of a responsible party or a party referred to

705 in subsection (f) of this subsection; [or] (3) the release occurs from an  
 706 underground storage tank or system which is not in compliance with  
 707 [an] a final order issued by the commissioner or [with the general  
 708 statutes and regulations governing the installation, operation and  
 709 maintenance of underground storage tanks and such lack of  
 710 compliance was a proximate cause of such release] a final judgment  
 711 issued by a court; or (4) the commissioner has made payment or  
 712 reimbursement from the account to any person or entity who is not  
 713 responsible for the release for which payment or reimbursement has  
 714 been made. All costs to the state relating to actions to recover such  
 715 payments, including but not limited to, reasonable attorneys' fees, shall  
 716 initially be paid from the underground storage tank petroleum clean-  
 717 up account. In any recovery the board or the commissioner is entitled  
 718 to recover from a responsible party or a party referred to in subsection  
 719 (f) of this section (A) all payments made [by the board] from the  
 720 account with respect to a release or suspected release, including, but  
 721 not limited to, payments to [third parties] a person or entity other than  
 722 a responsible party or a party referred to in subsection (f) of this  
 723 section, (B) all payments made by the [Department of Environmental  
 724 Protection] commissioner pursuant to subsection [(d)] (i) of this section  
 725 with respect to a release or suspected release, (C) interest on such  
 726 payments at a rate of ten per cent per year from the date such  
 727 payments were made, and (D) all costs of the state relating to actions to  
 728 recover such payments, including, but not limited to, reasonable  
 729 attorneys' fees. All actions brought pursuant to this section shall have  
 730 precedence in the order of trial, as provided in section 52-191.

731 [(d)] (i) The review board shall render its decision not more than  
 732 ninety days after receipt of an application from a responsible party, a  
 733 party referred to in subsection (f) of this section, or a third party  
 734 provided, in the case of a second or subsequent application, the board  
 735 shall render its decision not more than forty-five days after receipt of  
 736 such application. A copy of the decision shall be sent to the  
 737 [Commissioner of Environmental Protection] commissioner and the  
 738 [applicant or responsible] party seeking payment or reimbursement by

739 certified mail, return receipt requested. The [Commissioner of  
740 Environmental Protection] commissioner or any person aggrieved by  
741 the decision of the board may, within twenty days from the date of  
742 issuance of such decision, request a hearing before the board in  
743 accordance with the provisions of chapter 54. After such hearing, the  
744 board shall consider the information submitted to it and affirm or  
745 modify its decision on the application. A copy of the affirmed or  
746 modified decision shall be sent to the [applicant or responsible party]  
747 all parties to the hearing by certified mail, return receipt requested.  
748 Once the board renders a decision regarding an application or request  
749 for payment or reimbursement and no hearing has been requested  
750 pursuant to this subsection regarding any such decision, the costs,  
751 expenses or other obligations addressed by any such decision shall not  
752 be resubmitted in any other application or request.

753 [(e)] (j) Whenever the commissioner determines that as a result of a  
754 release, as defined in section 22a-449a, as amended by this act, or a  
755 suspected release, a clean-up is necessary, including, but not limited to,  
756 actions to prevent or abate pollution or a potential source of pollution  
757 and to provide potable drinking water, the commissioner may  
758 undertake such actions using not more than one million dollars from  
759 the underground storage tank petroleum clean-up account for each  
760 release or suspected release from an underground storage tank or an  
761 underground storage tank system for which the responsible party or a  
762 party referred to in subsection (f) of this section is the state or for  
763 which the responsible party or a party referred to in subsection (f) of  
764 this section was or would have been required to demonstrate financial  
765 responsibility under 40 CFR Part 280.90 et seq., as said regulation was  
766 published in the Federal Register of October 26, 1988. In addition, if a  
767 responsible party refuses to pay the first ten thousand dollars of third  
768 party claims, and has not already paid ten thousand dollars of costs  
769 resulting from the release or suspected release, the commissioner shall,  
770 upon order of the board pursuant to this section, make payment or  
771 reimbursement of the first ten thousand dollars of third party claims,  
772 provided (1) no more than ten thousand dollars of third party claims



773 shall be paid pursuant to this subsection for each release or suspected  
774 release from an underground storage tank system for which the  
775 responsible party is the state or for which the responsible party was or  
776 would have been required to demonstrate financial responsibility  
777 under 40 CFR Part 280.90 et seq., as said regulation was published in  
778 the Federal Register of October 26, 1988, and (2) that the board shall be  
779 entitled to recover such ten thousand dollars, notwithstanding the  
780 existence of the conditions specified in subdivisions (1) to (3),  
781 inclusive, of subsection [(b)] (g) of this section.

782 (k) With respect to any supplemental application or request for  
783 payment or reimbursement from the account, which application or  
784 request is based on an initial application or request for payment or  
785 reimbursement for which the board has determined that the costs,  
786 expenses or other obligations paid or incurred by such party are  
787 eligible for payment or reimbursement from the account, that was  
788 received by the board before June 1, 2004, the board, with the consent  
789 of any applicant, may order payment or reimbursement by the  
790 identification of a category by the commissioner of activities or costs,  
791 expenses, or other obligations that are less than one hundred thousand  
792 dollars and may establish a percentage to be paid from the account for  
793 any such activity, cost, expense, or obligation. In establishing such  
794 percentage, the commissioner shall consider the amounts previously  
795 paid from the account and any other information the commissioner  
796 deems relevant. Any such percentage shall be not more than, but may  
797 be less than, ninety per cent of the average amount, as determined by  
798 the commissioner, previously paid from the account for any activity,  
799 cost, expense or obligation. After the commissioner has established a  
800 percentage that may be paid, a responsible party or a party referred to  
801 in subsection (f) of this section may request, in writing, payment or  
802 reimbursement for any activity, cost, expense or other obligation at the  
803 percentage established by the commissioner. The board shall expedite  
804 consideration of any such written request and shall, not later than  
805 ninety days of receipt of any such request, determine whether to order  
806 payment or reimbursement from the account. The percentage

807 established by the commissioner pursuant to this subsection and paid  
808 from the account shall be considered full payment for any such  
809 activity, expense or other obligation. The activities, expenses or  
810 obligations identified by the commissioner pursuant to this subsection  
811 may constitute all or a portion of the amounts sought in a  
812 supplemental application or supplemental request for payment or  
813 reimbursement.

814 (l) Notification to the commissioner pursuant to regulations adopted  
815 pursuant to section 22a-449, as amended by this act, shall constitute  
816 compliance with any regulation adopted pursuant to section 22a-449e,  
817 as amended by this act, regarding notification to the board of a release.

818 Sec. 7. Subdivisions (1) to (5), inclusive, of section 22a-134 of the  
819 general statutes are repealed and the following is substituted in lieu  
820 thereof (*Effective from passage*):

821 (1) "Transfer of establishment" means any transaction or proceeding  
822 through which an establishment undergoes a change in ownership, but  
823 does not mean (A) conveyance or extinguishment of an easement, (B)  
824 conveyance of an establishment through a foreclosure, as defined in  
825 subsection (b) of section 22a-452f or foreclosure of a municipal tax lien,  
826 (C) conveyance of a deed in lieu of foreclosure to a lender, as defined  
827 in and that qualifies for the secured lender exemption pursuant to  
828 subsection (b) of section 22a-452f, (D) conveyance of a security interest,  
829 as defined in subdivision (7) of subsection (b) of section 22a-452f, (E)  
830 termination of a lease and conveyance, assignment or execution of a  
831 lease for a period less than ninety-nine years including conveyance,  
832 assignment or execution of a lease with options or similar terms that  
833 will extend the period of the leasehold to ninety-nine years, or from  
834 the commencement of the leasehold, ninety-nine years, including  
835 conveyance, assignment or execution of a lease with options or similar  
836 terms that will extend the period of the leasehold to ninety-nine years,  
837 or from the commencement of the leasehold, (F) any change in  
838 ownership approved by the Probate Court, (G) devolution of title to a

839 surviving joint tenant, or to a trustee, executor or administrator under  
840 the terms of a testamentary trust or will, or by intestate succession, (H)  
841 corporate reorganization not substantially affecting the ownership of  
842 the establishment, (I) the issuance of stock or other securities of an  
843 entity which owns or operates an establishment, (J) the transfer of  
844 stock, securities or other ownership interests representing less than  
845 forty per cent of the ownership of the entity that owns or operates the  
846 establishment, (K) any conveyance of an interest in an establishment  
847 where the transferor is the sibling, spouse, child, parent, grandparent,  
848 child of a sibling or sibling of a parent of the transferee, (L) conveyance  
849 of an interest in an establishment to a trustee of an inter vivos trust  
850 created by the transferor solely for the benefit of one or more sibling,  
851 spouse, child, parent, grandchild, child of a sibling or sibling of a  
852 parent of the transferor, (M) any conveyance of a portion of a parcel  
853 upon which portion no establishment is or has been located and upon  
854 which there has not occurred a discharge, spillage, uncontrolled loss,  
855 seepage or filtration of hazardous waste, provided either the area of  
856 such portion is not greater than fifty per cent of the area of such parcel  
857 or written notice of such proposed conveyance and an environmental  
858 condition assessment form for such parcel is provided to the  
859 commissioner sixty days prior to such conveyance, (N) conveyance of  
860 a service station, as defined in subdivision (5) of this section, before  
861 October 1, 2005, (O) any conveyance of an establishment which, prior  
862 to July 1, 1997, had been developed solely for residential use and such  
863 use has not changed, (P) any conveyance of an establishment to any  
864 entity created or operating under chapter 130 or 132, or to an urban  
865 rehabilitation agency, as defined in section 8-292, or to a municipality  
866 under section 32-224, or to the Connecticut Development Authority or  
867 any subsidiary of the authority, (Q) any conveyance of a parcel in  
868 connection with the acquisition of properties to effectuate the  
869 development of the overall project, as defined in section 32-651, (R) the  
870 conversion of a general or limited partnership to a limited liability  
871 company under section 34-199, (S) the transfer of general partnership  
872 property held in the names of all of its general partners to a general

873 partnership which includes as general partners immediately after the  
874 transfer all of the same persons as were general partners immediately  
875 prior to the transfer, (T) the transfer of general partnership property  
876 held in the names of all of its general partners to a limited liability  
877 company which includes as members immediately after the transfer all  
878 of the same persons as were general partners immediately prior to the  
879 transfer, or (U) acquisition of an establishment by any governmental or  
880 quasi-governmental condemning authority;

881 (2) "Commissioner" means the Commissioner of Environmental  
882 Protection or the designated agent of the commissioner;

883 (3) "Establishment" means any real property at which or any  
884 business operation from which (A) on or after November 19, 1980,  
885 there was generated, except as the result of remediation of polluted  
886 soil, groundwater or sediment, more than one hundred kilograms of  
887 hazardous waste in any one month, (B) hazardous waste generated at a  
888 different location was recycled, reclaimed, reused, stored, handled,  
889 treated, transported or disposed of, (C) the process of dry cleaning was  
890 conducted on or after May 1, 1967, (D) furniture stripping was  
891 conducted on or after May 1, 1967, [or] (E) a vehicle body repair facility  
892 was located on or after May 1, 1967, or (F) a service station is or was  
893 located;

894 (4) "Hazardous waste" means any waste which is (A) hazardous  
895 waste identified in accordance with Section 3001 of the federal  
896 Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq.,  
897 (B) hazardous waste identified by regulations adopted by the  
898 Commissioner of Environmental Protection, or (C) polychlorinated  
899 biphenyls in concentrations greater than fifty parts per million except  
900 that sewage, sewage sludge and lead paint abatement wastes shall not  
901 be considered to be hazardous waste for the purposes of this section  
902 and sections 22a-134a to 22a-134d, inclusive;

903 (5) "Service station" means a retail operation involving the resale of  
904 motor vehicle fuel including, but not limited to, gasoline, diesel fuel

905 and petroleum, kerosene [and which operation does not otherwise  
906 meet the definition of an establishment] or a business that uses or  
907 property on which is located one or more underground storage tank  
908 systems, as defined in section 22a-449a, as amended by this act, for the  
909 storage of petroleum or motor fuel for a fleet of more than five motor  
910 vehicles.

911 Sec. 8. (NEW) (*Effective from passage*) Notwithstanding any provision  
912 of sections 22a-449a to 22a-449i, inclusive, of the general statutes, as  
913 amended by this act, or any regulation adopted pursuant to said  
914 sections, except as provided for in subdivision (6) of this section, with  
915 respect to the investigation and remediation of a release the  
916 underground storage tank clean-up account shall be used to provide  
917 payment or reimbursement only when any of the following milestones  
918 are completed:

919 (1) A release response report prepared by an environmental  
920 professional, as defined by section 22a-133v of the general statutes, has  
921 been submitted to the Commissioner of Environmental Protection  
922 which report describes: (A) All initial response actions taken which are  
923 necessary to prevent an on-going release and to mitigate an explosion,  
924 fire or other safety hazard resulting from the release, (B) the results of  
925 an initial site investigation which determines the presence and extent  
926 of free product from the release, the potential for or existence of  
927 groundwater pollution from the release which threatens the quality of  
928 drinking water well or wells, and whether the release has resulted in  
929 soil vapors or indoor air that threatens public health; and (C) all  
930 interim actions taken and proposed to remove such free product to the  
931 extent technically practicable, to provide potable water to any person  
932 whose drinking water has been polluted by a substance from the  
933 release which is above the groundwater protection criteria or above a  
934 level determined by the Commissioner of Public Health to be an  
935 unacceptable risk of injury to the health or safety of persons using such  
936 groundwater as a public or private source of water for drinking or  
937 other personal or domestic uses, whichever is more stringent, and to

938 mitigate any risk to public health from polluted soil vapor or indoor  
939 air resulting from the release.

940 (2) An interim remedial action report approved, in writing, by a  
941 licensed environmental professional has been submitted to the  
942 commissioner or an interim remedial action report has been approved,  
943 in writing, by the Commissioner of Environmental Protection. Such  
944 interim remedial action report shall describe in detail all interim  
945 remedial action taken to: (A) Remove free product to the maximum  
946 extent technically practicable; (B) ensure that all persons whose  
947 drinking water was polluted by the release have been provided  
948 potable water; and (C) ensure that soil vapors which pose a risk to  
949 public health are prevented from migrating into any overlying  
950 buildings.

951 (3) An investigation report and remedial action plan approved, in  
952 writing, by a licensed environmental professional has been submitted  
953 to the commissioner, or an investigation report and remedial action  
954 plan has been approved, in writing, by the commissioner. Such  
955 investigation report and remedial action plan shall include a detailed  
956 description of an investigation which determines the existing and  
957 potential extent and degree of soil, surface water, soil vapor and  
958 groundwater pollution, on and off-site, resulting from the release and  
959 describes all actions proposed to remediate soil, surface water, air or  
960 groundwater polluted by the release in accordance with the  
961 regulations adopted pursuant to section 22a-133k of the general  
962 statutes.

963 (4) A soil remedial action report approved, in writing, by a licensed  
964 environmental professional has been submitted to the commissioner,  
965 or a soil remedial action report has been approved, in writing, by the  
966 commissioner. Such soil remedial action report shall describe in detail  
967 the extent of soil pollution resulting from the release, all remedial  
968 actions taken to abate such soil pollution, and all documentation that  
969 demonstrates that such soil pollution has been remediated in

970 accordance with the regulations adopted pursuant to section 22a-133k  
971 of the general statutes.

972 (5) A groundwater remedial action progress report approved, in  
973 writing, by a licensed environmental professional has been submitted  
974 to the commissioner or a groundwater remedial action progress report  
975 has been approved, in writing, by the commissioner. Such report may  
976 only be submitted after all construction necessary to implement the  
977 approved groundwater remedial actions have been completed and that  
978 the groundwater remedial actions have been operated and monitored  
979 for one year. Such report shall include a detailed description of the  
980 remedial actions, the results of groundwater or any other monitoring  
981 conducted, an analysis of whether the remedial actions are effective,  
982 and a proposal for any changes in the groundwater remedial actions  
983 and monitoring that may be necessary to achieve compliance with the  
984 regulations adopted pursuant to section 22a-133k of the general  
985 statutes.

986 (6) An annual groundwater remedial action progress report  
987 approved, in writing, by a licensed environmental professional has  
988 been submitted to the commissioner or approved, in writing, by the  
989 commissioner. Such report shall include a detailed description of the  
990 remedial actions, the results of groundwater or any other monitoring  
991 conducted for the year covered by the report, an analysis of whether  
992 the remedial actions are effective, and a proposal for any changes in  
993 the groundwater remedial actions and monitoring that may be  
994 necessary to achieve compliance with the regulations adopted  
995 pursuant to section 22a-133k of the general statutes. A responsible  
996 party or party referred to in subsection (f) of section 22a-449f of the  
997 general statutes, as amended by this act, may submit to the board up to  
998 but no more than four separate applications or requests for payment or  
999 reimbursement in a calendar year regarding costs, expenses or  
1000 obligations paid or incurred concerning annual groundwater  
1001 monitoring or compliance with this subdivision.

1002 (7) A final remedial action report approved by a licensed  
 1003 environmental professional has been submitted to the commissioner,  
 1004 or a final remedial action report has been approved, in writing, by the  
 1005 commissioner that documents that the release has been investigated in  
 1006 accordance with prevailing standards and guidelines and that the soil,  
 1007 surface water, groundwater and air polluted by the release has been  
 1008 remediated in accordance with the regulations adopted pursuant to  
 1009 section 22a-133k of the general statutes.

1010 (8) The commissioner may adopt regulations, in accordance with the  
 1011 provisions of chapter 54 of the general statutes, establishing milestones  
 1012 for investigation and remediation of releases or suspected releases  
 1013 from underground storage tank systems, including milestones that  
 1014 differ from those set forth in this section. Upon the adoption of such  
 1015 regulations, the milestones for investigation and remediation for which  
 1016 payment or reimbursement is available from the account shall be those  
 1017 set forth in the regulations.

1018 (9) This section shall apply to an application or request for  
 1019 reimbursement or payment received by the board on or after October  
 1020 1, 2005, regardless of when the release or suspected release occurred,  
 1021 whether actions in response to the release or suspected release have  
 1022 already occurred or whether prior applications or requests seeking  
 1023 payment or reimbursement have already been submitted to the board.  
 1024 Upon the implementation of the provisions of this section, the  
 1025 provisions of subdivisions (1) and (4) of subsection (g) of section 22a-  
 1026 449f of the general statutes, as amended by this act, shall no longer  
 1027 apply.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-449
Sec. 2	<i>from passage</i>	22a-449a(3)
Sec. 3	<i>from passage</i>	22a-449c
Sec. 4	<i>from passage</i>	22a-449d(a)



Sec. 5	<i>from passage</i>	22a-449e
Sec. 6	<i>from passage</i>	22a-449f
Sec. 7	<i>from passage</i>	22a-134(1) to (5)
Sec. 8	<i>from passage</i>	New section

***Statement of Purpose:***

To revise the nonresidential underground storage tank systems program to, among other things, establish inspection requirements for such systems, to establish a program to authorize persons to perform such inspections, to require an owner or operator of a system to pump out the contents of a system or to prohibit deliveries to a system where the owner or operator is not in compliance with certain requirements for the systems, to revise the fees relating to such systems, to revise the definition of a responsible party to include a person or entity who has ever owned or operated an underground storage tank or underground storage tank system from which there is or has been a release, to allow the Commissioner of Environmental Protection to make payments to assignees from the underground storage tank petroleum clean-up account, to prohibit payment or reimbursement from such account for diminution in property value, to revise the dollar amounts for which a party must bear in response to a release or suspected release, to establish a maximum payment or reimbursement from the account to third parties, to establish a maximum payment or reimbursement from the account for attorneys' fees, to establish a "pay for performance sub-account" within the account, to establish deadlines for submissions of multiple applications relating to a subject release or suspected release, to add provisions regarding payment or reimbursement to a party from a source other than the account, to provide the commissioner with authority to establish a schedule for the maximum amount to be paid from the account for labor, equipment, materials, services or other costs, to require written approval by an environmental professional or the commissioner, depending on the dollar amount, prior to the board ordering or the commissioner making payment from the account, to allow an environmental professional's fees to be included in an application or request for payment or reimbursement from the account, to revise the requirement for payment or reimbursement from the account regarding demonstration of the lack of compliance with the general statutes and regulations governing underground storage tank systems as a proximate cause of the subject release or suspected release, to require an applicant to submit audits regarding current compliance of existing underground storage tank systems, to allow the

board to reduce the payment or amount to be reimbursed to an applicant due to noncompliance with certain regulations and statutes regarding underground storage tank systems, to define a new entity that is eligible for payment or reimbursement from the account, to limit and reduce the number of subsequent applications for payment or reimbursement from the account, to allow expedited payment or reimbursement from the account at a reduced percentage based on the average amount previously paid for a particular activity, costs or expense, to establish a response milestone requirement prior to payment or reimbursement from the account, and to revise the Transfer Act to, among other things, include service stations in the definition of an establishment.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*